

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7607 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE S.D.DAVE

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1. Whether Reporters of Local Papers may be allowed  
to see the judgements? No

2. To be referred to the Reporter or not? No

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3. Whether Their Lordships wish to see the fair copy  
of the judgement? No

4. Whether this case involves a substantial question  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder? No

5. Whether it is to be circulated to the Civil Judge?  
No

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RAMAKANT PRAHLADJI SONI

Versus

STATE OF GUJARAT

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Appearance:

MR JC VYAS for Petitioner

MR. T.H.SOMPURA for Respondents No.1, 2 & 3

MR. SURESH PATEL for Respondents No. 4 & 5.

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CORAM : MR.JUSTICE S.D.DAVE

Date of decision: 13/01/97

ORAL JUDGEMENT

Rule. Ld. Govt. Counsel Mr. T.H.Sompura for the  
Respondents No. 1,2 & 3 and learned counsel Mr. Suresh  
Patel for Respondents No. 4 & 5 waive service of the  
rule.

The sale of the land bearing Block No. 660 of village Jaspur, under the Kalol taluka of Mehsana district was found to be illegal and barred under Section 63 of the Bombay Tenancy And Agricultural Lands Act, 1948. The petitioner has lost upto the Gujarat Revenue Tribunal, because under the orders of the Tribunal dated October 30, 1993, the orders passed by the authorities below came to be upheld and the Revision Application filed by the present petitioner came to be dismissed.

Learned counsel Mr. Janak Vyas placing reliance upon Section 63 and 84C of the Bombay Tenancy And Agricultural Lands Act, 1948, urges that the matter requires to be remanded to the Respondent No.2, that is the Mamlatadar & Agricultural Lands Tribunal, Kalol, for a fresh decision, according to law. Learned counsel with the assistance of the provisions contained under Section 84C (2) urges that, an opportunity was required to be given to the parties to restore the original position and that, for this purpose a specified time limit was required to be given. Learned counsel urges that, this has not been done and that the petitioner is probably ready & willing to restore the original position. When a reference is made to the provisions contained in Section 84C (2) of the Bombay Tenancy And Agricultural Lands Act, 1948, it appears that Mr. Vyas is perfectly justified in raising such a contention before me. The powers under Section 84C of the Act of 1948 could be exercised but that, this could be done if the parties to such transfer/acquisition are not prepared to give the undertaking and to restore the original position. This part has not been considered by the authorities below. It therefore would be appropriate to allow the present petition in part and to quash and set aside the orders passed by the Gujarat Revenue Tribunal and to remit the proceedings to Respondent No.2 the ALT, Kalol. In the result therefore, the present petition is partly allowed and the orders under challenge are hereby quashed and set aside, and the matter is remitted to the Respondent No.2, ALT, Kalol; who shall decide the matter according to law and on merits, regard being had to the provisions contained in Section 84C (2) of the Act of 1948. Rule is made absolute to the above said extent only. The petitioner shall stand protected till the remanded proceedings are decided.

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